

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

TAMMY ATKINS-POULIN AND)
RACQUEL ELIASEN,)
PLAINTIFFS,)
v.) Civil Action Docket No. _____
EDDIE BAUER, LLC,)
DEFENDANT.)

)

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1331, 1367, 1441 and 1446, Defendant Eddie Bauer, LLC (“Eddie Bauer” or “Defendant”) hereby notices the removal of this action from the Kennebec County Superior Court, State of Maine (the “State Court”), to the United States District Court for the District of Maine. In support of this Notice of Removal, Eddie Bauer states as follows:

GROUND FOR THE NOTICE OF REMOVAL

1. On or about September 25, 2018, Plaintiffs Tammy Atkins-Poulin (“Atkins-Poulin”) and Raquel Eliasen (“Eliasen”) (collectively, “Plaintiffs”) commenced an action in the Kennebec County Superior Court for the State of Maine captioned *Tammy Atkins-Poulin and Raquel Eliasen v. Eddie Bauer, LLC*, Civil Action No. CV-18-164 (the “State Court Action”).
2. On or about September 27, 2018, Plaintiffs served Eddie Bauer with a copy of the Summons and Complaint (the “Complaint”) filed in the State Court Action, which alleges that Defendants violated the Maine Human Rights Act (“MHRA”), 5 M.R.S. §4551, *et seq.*, the Maine Whistleblowers’ Protection Act (“WPA”), 26 M.R.S. §831, *et seq.*, Maine’s wage and hour laws, 26 M.R.S. §§ 621-A, 661, *et seq.*, and the Fair Labor Standards Act (“FLSA”), 29 U.S.C. §§ 201, *et seq.*

3. This Notice of Removal is being filed within thirty (30) days of September 27, 2018, as required by 28 U.S.C. § 1446(b). See 28 U.S.C. § 1446(b); *Murphy Bros. Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344 (1999).

4. A copy of all process, pleadings and orders served upon or by Defendant in the State Court Action is attached hereto as **Exhibit A**, in accordance with 28 U.S.C. § 1446(a). An attested copy of the State Court record has been requested and will be filed with this Court upon receipt.

5. The Complaint alleges claims for violation of the MHRA, the WPA, Maine's wage and hour laws, and the FLSA.

6. Section 1331 provides as follows:

The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.

7. This action is a civil action over which this Court has original jurisdiction based on a federal question pursuant to § 1331. This action is also a civil action which may be removed to this Court by Eddie Bauer pursuant to 28 U.S.C. §§ 1441(a) because Plaintiff asserts a federal cause of action.

Federal Question

8. The Complaint alleges claims under the FLSA, 29 U.S.C. §§ 201, *et seq.*

9. Pursuant to 28 U.S.C. §1331, this Court has original jurisdiction over Plaintiffs' claims under the FLSA because they arise under federal law. Accordingly, Plaintiffs' claims for violation of the FLSA under 29 U.S.C. §§ 201, *et seq.*, are removable to this Court under 28 U.S.C. §1441(a). The remaining state law claims are removable pursuant to 28 U.S.C. § 1337(a)

as this Court has supplemental jurisdiction over such state law claims because they form part of the same case or controversy under Article III of the United States Constitution.

10. This is the District Court of the United States for the district embracing the place where the Action is pending and is therefore the appropriate court for removal pursuant to 28 U.S.C. § 1441(a).

11. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being submitted for filing with the Clerk of the Kennebec County Superior Court and is being served upon Plaintiffs' counsel of record.

12. In filing this Notice of Removal, Defendant does not waive any defects in service of process, venue or personal jurisdiction.

WHEREFORE, Defendant Eddie Bauer, LLC, respectfully requests that this Action proceed as an action properly removed to the United States District Court for the District of Maine from Kennebec County Superior Court.

Dated this 25th day of October, 2018

/s/ Melinda Caterine

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Attorney for Eddie Bauer, LLC
Defendant

CERTIFICATE OF SERVICE

I, Melinda J. Caterine, hereby certify that I electronically filed the foregoing document using the CM/ECF system on the date noted below, which will send notification of such filing to the following:

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DATED this 25th day of October, 2018

By: /s/ Melinda J. Caterine

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